

No. 1994-125

AN ACT

HB 2874

Amending the act of December 20, 1985 (P.L.492, No.116), entitled "An act providing for the establishment, implementation and administration of a customized job training program; and imposing additional powers and duties on the Department of Education," further providing for standards of eligibility for participating trainees and employers; transferring administrative responsibility to the Department of Commerce; and providing powers and duties to the Department of Commerce.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 2, 3, 4, 5, 6, 7, 9 and 12 of the act of December 20, 1985 (P.L.492, No.116), known as the Customized Job Training Act, are amended to read:

Section 2. Legislative intent.

It is the intent of the General Assembly that a Customized Job Training Program be established to meet the training needs of the State's new and **[expanding]** *existing* business by **[enhancing]** *improving* the skills of the workers *and developing skills of certain target groups of unemployed persons* of this Commonwealth. In so doing, funding shall be dedicated towards training projects which result in net new full-time employment *or employment* opportunities, significant wage improvements, the retention of otherwise lost jobs or other conditions which would offer substantial economic benefit to this Commonwealth. Recognizing that many regions of the State remain economically distressed, customized job training programs should attempt to meet the special job training needs of these areas.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Capital investment." An expenditure for land, buildings, renovations, machinery and equipment which is directly related to the need for the proposed training.

"Current employee trainee." An individual who is currently employed by a private company and who is enrolled in a training program designed to enhance that individual's skills and knowledge necessary for that individual to assume a higher level position, or to retrain the individual in order that a job which would have otherwise been lost could be retained.

"Department." The Department of **[Education]** *Commerce* of the Commonwealth.

“Dislocated worker.” A worker who meets any one of the following conditions:

(1) Has been terminated or laid off, or who has received notice of termination or layoff, and is eligible for or has exhausted unemployment compensation benefits.

(2) Is unlikely to return to the industry or occupation in which the individual was employed.

(3) Has been terminated or received notice of termination as a result of the permanent closure or relocation of a plant, facility or plant operation in which the individual was employed.

(4) Is chronically unemployed.

[(5) (i) Has limited opportunities for employment in the geographic area in which the individual resides; or

(ii) Is an individual who may face substantial barriers to employment because of age.]

(5) Has limited opportunities for employment in the geographic area in which the individual resides.

(6) Is an individual who may face substantial barriers to employment because of age.

“Displaced homemaker.” A person who meets all of the following criteria:

(1) Has worked without pay as a homemaker for his or her family.

(2) Is not adequately employed.

(3) Has had or would have difficulty finding employment.

(4) Has depended on the income of a family member and has lost *all or substantially all of* that income; or is or has been dependent on governmental assistance; or has been the recipient of disability assistance and is no longer eligible.

“Entry level trainee.” An individual who is a prospective employee of a private company and is enrolled in a training program designed to enable that individual to obtain and retain an entry level position, paying at least the currently allowable minimum wage.

“Grant recipient.” The local educational agency receiving funding from the department for the purpose of job training.

“Industrial resource center.” A nonprofit corporation incorporated for the purposes of enhancing and supporting the competitive ability of manufacturers in this Commonwealth by helping them take advantage of and benefit from the transmission of production techniques and technologies.

“Job link program.” An educational training program which targets public assistance recipients for training to provide the skills necessary to be employed by a private company and which receives funds, in addition to any provided for under this act, from Federal, State or local governments or philanthropic or other institutions and is administered by the Department of Commerce, the Department of Public Welfare or another organization for the purpose of providing employment for public assistance recipients.

“Local educational agency.” An eligible educational agency as designated by the department. The term includes any of the following Pennsylvania institutions:

- (1) Area vocational-technical schools.
- (2) Community and junior colleges.
- (3) Intermediate units.
- (4) Licensed private/proprietary business and trade schools.
- (5) Public school districts.
- (6) State or private colleges or universities.
- [(7) State-related universities.]

The Department of Education shall be responsible for the certification of the above-mentioned Pennsylvania institutions. Industrial resource centers certified by the Department of Commerce may also be considered a local educational agency for the purposes of formulating training programs for manufacturing business but may not serve as a local education agency for the purposes of the direct training of the employees of the manufacturing business.

“Net new jobs.” The difference between the number of employees at the end of a training project (employees on the payroll at the relevant private company locations on the date of submission of a job training application plus those employees training and hired) and the peak number of employees at those locations in the 12-month period immediately prior to the submission of the job training application.

“Private company.” [Any agricultural, industrial, manufacturing or research and development enterprise or enterprises, as defined in section 3 of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.] *Any business, professional service or other enterprise. The term does not include point-of-sale retail businesses.*

“Public assistance recipient.” A person who has qualified for Federal or State public assistance payments.

“Training program.” A systematic program, generally no longer than six months in duration, designed to provide a trainee with the skills and knowledge necessary to meet a private company’s specifications for a particular occupation or trade, the successful completion of which results in the trainee being employed full time by that private company. Such programs may involve classroom instruction within the *local educational* agency or within the private company plant or on-the-job training or any combination thereof.

“Unemployed individual.” A person who has been without a job for a period of four months, who wants to work and who is available for work. Section 4. Powers and duties of [the Department of Education] *department.*

The department shall have sole authority for the establishment, implementation and administration of the Customized Job Training Program.

Funds provided through this act shall be used exclusively for training grants to local educational agencies on behalf of private companies [**either locating, expanding or starting up**] *either located or locating* in Pennsylvania. The department shall be responsible for all of the following:

- (1) Promulgate such regulations, develop such forms and institute such procedures as may be necessary to implement this act.
- (2) Approve or disapprove any request for grants according to the procedures outlined in this act.
- (3) Require such information and records from each local educational agency as it deems necessary.

Section 5. Grant procedure.

(a) Private company commitments.—An application for a grant shall be initiated by a private company [**which is locating, expanding or upgrading a facility**] and shall be submitted to a local educational agency.

(b) Eligibility.—A company seeking a grant for customized job training must be able to provide to the department a statement that demonstrates that both the training for which a grant is to be made and State funds are necessary for the location of the private company, creation of jobs, expansion of positions [**or the preservation**], *improvement of productivity or the retention* of otherwise lost jobs. It is not the intent of the General Assembly to provide a grant to a private company that would have otherwise conducted the training itself.

(c) Grant applications.—

(1) The local educational agency shall be responsible for:

- (i) Preparing and submitting the application.
- (ii) Preparing a detailed outline of the proposed training program in cooperation with the private company.
- (iii) Contacting the local [**Office of Employment Security (OES)**] *Job Center Office* and the local county board of assistance, when the application includes plans for training entry level employees, to solicit referrals of candidates for the training program. [**The local educational agency shall request written certification from the Office of Employment Security and the local county board of assistance that there are not unemployed individuals, currently registered, who are adequately trained and available to fill positions for which the private company is seeking training assistance.**] *If the local Job Center Office does not have appropriate qualified candidates registered, the local educational agency should inform the private company that the Job Center Office can assist in the recruitment of qualified entry level trainees.*
- (iv) Assuring compliance with the approved contact.
- (v) Monitoring in-school, in-plant or on-the-job training programs.
- (vi) Preparing and submitting reports as required by the department.
- (vii) Maintaining accurate reports to substantiate expenditures.

(viii) Reporting to the department the number of people who, 180 days after the completion of the training program, are employed by the private company requesting the training.

(2) The private company shall be responsible for:

(i) Establishing criteria for the selection of trainees in consultation with the *local educational* agency.

(ii) **[Recruitment of] Recruiting** trainees for the entry level customized job training program in conjunction with the *local educational* agency, the local **[Office of Employment Security] Job Center Office** and the local county board of assistance.

(iii) Determining the number of individuals to be trained for the available entry level positions. This figure may provide for reasonable attrition during the training period.

(iv) **[Final selection of] Selecting** trainees.

(v) Reporting to the *local educational* agency accurate training records and expenditure reports upon which payments can be documented and audits performed. Payments will be based on documented expenditures.

(vi) **[Selection of] Selecting** individuals from its current workforce to participate in any upgrading course. In making such selection, the private company must assure the local educational agency:

(A) the positions for which employees are being upgraded are positions which are not regularly available to entry level employees and for which adequately trained persons are not available within the private company;

(B) the positions for which employees are being upgraded offer higher wages, would have been lost if customized job retraining had not been conducted or are necessary for the company's competitiveness in the market;

(C) *the* successful completion of the upgrading course will result in continued employment with the private company in the occupation for which the employee is being upgraded; and

[(vii) Demonstrating that, for all upgrading training programs, a concurrent capital investment will be made which is at least equal to the cost of the proposed training program and directly related to the need for upgrading of positions, or such upgrading will create an equal number of entry level positions.]

(vii) Reporting to the local educational agency the number of trainees who were employed by the private company 180 days after completion of the training program.

Section 6. Training program requirements.

(a) Training plan.—In conjunction with its grant application, each *local educational* agency shall develop and submit to the department a training plan. Such a training plan shall include:

(1) A statement of **[the] measurable** objectives of the training program.

(2) The number of trainees, entry level and current employees, and the number of net new jobs that will result from the training.

(3) A job description for the position to be filled by the trainee and the expected wage earned upon completion of the training program.

(4) A time schedule for the completion of the training program.

(5) A description of the facilities used for training.

(6) Evidence of **[certification by the Office of Employment Security]** *notification of the proposed plan to the Job Center Office.*

(7) A statement of the evaluation criteria to be used to determine competency achievement or an evaluation of trainees' performance once the training program is completed.

(8) A statement that both the local educational agency and the private company shall comply with the provisions of section 9.

(9) *A detailed budget itemizing the costs of training.*

(b) Review of application.—

(1) The department, when reviewing applications for training programs, should carefully consider all other available resources, including, but not limited to, private sector funds, other State or local agency training programs or funds made available under the Job Training Partnership Act (Public Law 97-300, 96 Stat.1322) *or such other Federal programs which provide funds for employment training.*

[(2) The department shall establish priorities for awarding of grants. After the examination of the potential results of the training proposal, priority shall be given to a training program which serves a community in which the average unemployment rate in the most recently completed calendar year is above the Statewide average unemployment rate for the same period or which serves a State-designated enterprise zone.]

(2) *The department shall establish criteria for awarding of grants which shall give priority to those proposals, other than in a job link program, which create jobs and have one or more of the following characteristics:*

(i) *A training program determined by the department to be in a growth industry vital to this Commonwealth's competitiveness in the international marketplace or active in international exporting, including, but not limited to, the medical research, advanced manufacturing, advanced materials, advanced technology and pharmaceutical industries.*

(ii) *The training program shall be for a private company in a community in which the average unemployment rate in the most recently completed calendar year is above the Statewide average unemployment rate for the same period or which serves a State-designated enterprise zone.*

(iii) *The training program is for a private company which is making a capital investment.*

(3) The department shall also establish criteria for awarding of grants which shall give priority to those proposals, other than in a job link program, which retain jobs and which have one or more of the following characteristics:

(i) A training program determined by the department to be in a growth industry vital to this Commonwealth's competitiveness in the international marketplace or active in international exporting, including, but not limited to, the medical research, advanced manufacturing, advanced materials, advanced technology and pharmaceutical industries.

(ii) The training program shall be for a private company in a community in which the average unemployment rate in the most recently completed calendar year is above the Statewide average unemployment rate for the same period or which serves a State-designated enterprise zone.

(iii) The training program is for a private company which is making a capital investment.

[(3)] (4) Within 30 days of receipt of its application, the department shall provide each company and local educational agency with a letter outlining the current status of said application. This letter shall include an assessment of the completeness of the application, an estimate of the amount of time required for completion of the review and the application's present [location] status within the process.

(c) Review of job link applications.—Job link program applications shall be reviewed in accordance with regulations, statements of policy and guidelines promulgated for the program by the agency having administrative responsibility of the job link program.

Section 7. Contracted services.

(a) Subcontracts.—The local educational agency may subcontract with a participating private company or [a nonprofit organization] *other organizations or individuals* for provision of all or a portion of the services to be provided, and funds may be allocated from the agency to the subcontractor for such purposes.

(b) Compliance.—The agreement for contracted services must include all provisions outlined in section 5(c).

Section 9. Funding.

(a) Funding support.—Funding will be provided from an annual appropriation by the General Assembly.

(1) Customized job training funding for entry level training will be used to support the training costs for net new jobs. Up to 80% of the eligible entry level training costs will be provided except for those private companies which meet one of the conditions of this paragraph, in which case *up to* 100% of the eligible entry level training costs will be provided.

(i) A private company locating in this Commonwealth.

(ii) A private company located in this Commonwealth which is in the early stages of start-up and expects to provide a substantial number of net new jobs for the Commonwealth.

(iii) A private company which is seeking to expand and where the entry level trainees will be at least 20% public assistance recipients, dislocated workers, unemployed individuals or displaced homemakers.

(2) Customized job training funding for eligible upgrade training costs shall normally not exceed 70% of such costs; however, the department may choose to grant exceptions when proposed training is considered to be in the best economic development interests of this Commonwealth. **[Proposals must show both a concurrent and significant capital investment at least equal to the amount of the grant requested and directly related to the need for the upgrading of job positions or that the upgrade training will result in the creation of an equal number of entry level job positions.]**

(b) Limitations on funding.—

(1) No funds used for training grants awarded under the provisions of this act shall cause the reduction of the work force, the displacement of workers employed by the company prior to the commencement of the training program or cause the violation of any conditions of existing collective bargaining agreements. *However, because the introduction of new manufacturing techniques and modernization may lead to short-term reductions in the work force, the Secretary of Commerce may waive this funding limitation in those situations in which the long-term economic benefits to be gained by the introduction of new manufacturing techniques and modernization greatly exceed the short-term detriment to the work force.*

(2) No funds appropriated pursuant to this act shall be used for *point-of-sale* retail job training.

(3) **[No]** *Except when funding under this section is for a job link program, no funds will be used for training which will not result in full-time permanent employment.*

(4) Funding for entry level training shall be provided only to the extent that qualified individuals, as determined by the **[Office of Employment Security]** *Job Center Office*, are not available.

(5) Funds appropriated for training programs under this act are not intended to cause, aid or assist in the relocation of any private company operation from one part of the Commonwealth to another.

(6) No more than 20% of the funds appropriated pursuant to this act shall be granted to **[projects]** *any one company* in any one county.

(7) *Funds appropriated for training programs under this act shall be used for costs related to actual training and shall not be used to offset production costs or fixed assets.*

(c) Reimbursement for training.—The final reimbursement to the local educational agency shall be withheld pending a final program review by the department.

[(d) Transition.—Customized Job Training Project applications pending in accordance with the terms and requirements of this act shall not be disqualified from receiving funding solely because a project has been initiated.]

Section 12. Rules and regulations.

(a) Temporary exemption from review.—In order to facilitate the speedy implementation of the program, the department shall have the power and authority to promulgate and adopt and use regulations that shall be published in the Pennsylvania Bulletin. The regulations shall not be subject to review pursuant to section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and, except as provided in subsection (c), shall be effective for a period ending not later than June 30, 1986.

(b) Expiration of exemption.—Except as provided in subsection (c), after the expiration of the temporary exemption period, all regulations shall expire and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.

(c) Exception.—Regulations adopted and pursuant to subsection (a) may be continued in effect if the Leadership Committee created pursuant to section 3 of the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, extends the regulations.]

(a) *Continuation of existing rules and regulations.*—All rules and regulations currently in effect under the authority of the Department of Education shall remain in effect under the authority of the Department of Commerce until such time as the rules and regulations are replaced.

(b) *Temporary exemption from review.*—The Department of Commerce shall have the power and authority to promulgate, adopt and use temporary regulations that shall be published in the Pennsylvania Bulletin. The temporary regulations shall not be subject to review pursuant to section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, for a period ending not later than June 30, 1995.

(c) *Expiration of exemption.*—After the expiration of the temporary exemption period, all regulations shall expire and shall be replaced by regulations which the Department of Commerce shall promulgate, adopt and publish as provided by law.

Section 2. Section 13 of the act is repealed.

Section 3. The act is amended by adding a section to read:

Section 13.1. Transfer.

(a) Powers and duties.—*The functions, powers and duties of the Department of Education pursuant to the provisions of this act are hereby transferred to the Department of Commerce.*

(b) Additional transfers.—*There are hereby transferred to the Department of Commerce to be used, employed and expended in connection with the functions, powers and duties transferred by subsection (a), the following:*

(1) Contract obligations, if any.

(2) The property, supplies, equipment, records and files now being used or held in connection with such functions, powers and duties.

(3) The unexpended balances of appropriations, allocations and any other funds available or to be made available for use in connection with such functions, powers and duties.

Section 4. This act shall take effect July 1, 1995, or immediately, whichever is later.

APPROVED—The 7th day of December, A.D. 1994.

ROBERT P. CASEY